SUPREME COURT OF THE UNITED STATES.

No. 196.—October Term, 1926.

Hector N. Zahn and A. W. Ross, Plaintiffs in Error, vs. Board of Public Works of the City of Los Angeles, Charles H. Treat, Hugh McGuire, and E. J. Delorey, etc.	In Error to the Supreme Court of the State of California.

[May 16, 1927.]

Mr. Justice Sutherland delivered the opinion of the Court.

This is a proceeding in mandamus brought in the state court to compel defendants in error to issue a building permit enabling plaintiffs in error to erect a business building upon a lot lying within a district of the City of Los Angeles restricted by the zoning ordinance of that city against buildings of that character. The ordinance creates five zones, designated as "A", "B", "C", "D", and "E", respectively, and classifies the kind of buildings, structures and improvements which may be erected in each. The ordinance is of the now familiar comprehensive type, but in the main regulates only the character of buildings which lawfully may be erected and does not prescribe height and area limitations. It is assailed as being repugnant to the due process of law and equal protection clauses of the Fourteenth Amendment. The property of plaintiffs in error is in zone "B", in which, generally stated, the use is limited to buildings for residential purposes, churches, private clubs, educational and similar purposes. All buildings for private business are excluded, with the exception of offices of persons practicing medicine. The state supreme court, in a well reasoned opinion, upheld the ordinance and denied the relief sought. 195 Cal. 497. And see *Miller* v. *Board of Public Works*, 195 Cal. 477.

The constitutional validity of the ordinance in its general scope is settled by the recent decision of this court in *Euclid* v. *Ambler*

Co., 272 U. S. 365; and upon the record here we find no warrant for saying that the ordinance is unconstitutional as applied to the facts in the present case. The property of plaintiffs in error adjoins Wilshire Avenue, a main artery of travel through and beyond the city; and if such property were available for business purposes its market value would be greatly enhanced. The lands within the district were, when the ordinance was adopted, sparsely occupied by buildings, those in which business was carried on being limited to a few real estate offices, a grocery store, a market, a fruit stand, and a two-story business block. Much of the land adjoining the boulevard within the restricted district had already been sold with restrictions against buildings for business purposes, although the property of plaintiffs in error and the adjacent property had not been so restricted. The effect of the evidence is to show that the entire neighborhood, at the time of the passage of the zoning ordinance, was largely unimproved, but in course of rapid development. The Common Council of the city, upon these and other facts, concluded that the public welfare would be promoted by constituting the area, including the property of plaintiffs in error, a zone "B" district; and it is impossible for us to say that their conclusion in that respect was clearly arbitrary and unreasonable. The most that can be said is that whether that determination was an unreasonable, arbitrary or unequal exercise of power is fairly debatable. In such circumstances, the settled rule of this court is that it will not substitute its judgment for that of the legislative body charged with the primary duty and responsibility of determining the question. *Euclid* v. *Ambler Co.*, *supra*, 388, 395; *Radice* v. *New York*, 264 U. S. 292, 294; *Hadacheck* v. *Los Angeles*, 239 U. S. 394, 408-412, 413-414; *Cusack Co.* v. *City of Chicago*, 242 U. S. 526, 530-531; *Rast* v. *Van Deman & Lewis*, 240 U. S. 342, 357; *Price* v. *Illinois*, 238 U. S. 446, 452.

Judgment affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.